

REMARKS

Claims 1-19 are currently pending in this application. All claims stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 2002/0032579 to Harpale in view of U.S. Patent No. 6,014,627 to Togher et al. In response to the Examiner's rejection of the claims, Applicant respectfully asserts that the pending claims are allowable over the cited references because the Examiner has failed to establish a *prima facie* case of obviousness. The MPEP states, in relevant part:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. MPEP § 2142.

The Examiner has failed to show that Harpale and Togher, alone or in combination, teach all of the elements of claims 1-19.

Pending independent claims recites: *inter alia*, “[a] method for online trading assets via transactionally linked virtual markets comprising ... defining at least one unified cross-market trading strategy that includes at least a first order in a first virtual market and a second order in a second virtual market; automatically calculating, based on the unified cross-market trading strategy, a price and an amount for the first order in the first virtual market based on a price and an amount of one or more orders in the second virtual market; [and] automatically calculating, based on the unified cross-market trading strategy, a price and an amount for the second order in the second virtual market based on a price and an amount of one or more orders in the first virtual market.” Similar limitations appear in independent claims 12 and

19. The Examiner has acknowledged that none of the limitations underlined above are shown in Harpale. Moreover, Applicant has carefully reviewed the portions of Togher et al. cited by the Examiner, and it is respectfully submitted that none of the cited portions of Togher et al. teaches or suggests the limitations underlined above. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness with respect to the pending claims.

Applicant also disagrees with the Examiner's assertion that "currency trading is inherently cross market." A patent applicant has the right to be his own lexicographer and, in this regard, Applicant respectfully directs the Examiner's attention to the description of "Market" set forth in the Patent Specification:

... Examples of Markets are a spot foreign exchange market for exchanging currencies, a market to trade options, interest rates, futures, commodities. ... Specification at p. 16, lines 11-14 (Emphasis added).

Simply put, for purposes of the present invention, foreign exchange trading like that described in Togher (where one currency is exchanged for a different currency) corresponds to trading in a single market, rather than "cross-market" trading as suggested by the Examiner. One example of a cross-market trading strategy in accordance with the present invention is described at page 21, lines 9-13, of the Specification, and involves multiple simultaneously active markets, i.e., a spot foreign exchange market for trading Euros (EUR) in exchange for U.S. Dollars (USD), a spot foreign exchange market for trading USD in exchange for Japanese Yen (JPY), and a spot foreign exchange market for trading EUR in exchange for JPY. By contrast, Togher et al. is limited to trading within a single currency

market, e.g., see discussion of market for exchanging USD and German marks (DEM) set forth at col. 7, lines 41-45 of Togher et al.

As discussed more fully in the Specification, the present invention allows for creation and execution of trading strategies that span multiple markets, such as the EUR/USD, USD/JPY and EUR/JPY markets mentioned above. For example, pages 25-26 of the Specification describe part of one such cross-market trading strategy as follows:

“The strategy (called “FX Arbitrage Strategy”) is defined as an arbitrage strategy that has a required Return On Investment (ROI) of “1/10%”, a Profit Location (the asset/date “bucket” where the resulting ROI ends up) of “USD Spot”, and is comprised of three Strategy Items: Item #1 is a sell item linked to Market A (EUR/USD Spot FX), Item #2 is a sell item linked to Market B (USD/JPY Spot FX), and Item #3 is a buy item linked to Market C (EUR/JPY Spot FX).

When activated, a strategy must first identify the best existing counterorder for each of its Items. For Item #1, the best counterorder would be order #1, a buy order in Market A having a price of 1.0235 and a size of 1,000,000. For Item #2, the best counterorder would be order #3, a buy order in Market B having a price of 103.15 and a size of 3,000,000. For Item #3, the best counterorder would be order #6, a sell order in Market C having a price of 105.50 and a size of 2,000,000....

Once the strategy has identified the counterorder for each of its Items, it can then calculate the price and amount for the order it will place on behalf of each Item. Item #1 is defined as having a price formula of $(C.\text{BestPrice} / B.\text{BestPrice}) \times 1.001$. This means that to calculate the price for the order which will be placed on behalf of Item #1, the strategy must take the best sell price (the price of the best counterorder) from Market C, divide it by the best buy price from Market B, and then multiply the result by 1.001 to build in the required Return On Investment of 1/10%. (If the Item were a buy Item, the price would be divided by 1.001 to build in the required ROI). The calculated price would therefore be equal to 1.02380514

Since this Item is a sell Item and the strategy will therefore be placing a sell order on its behalf, the order price must be rounded up to the number of decimal places which are conventionally used when placing orders in the EUR/USD Spot FX Market (four places to the right of the decimal), making the final order price 1.0239. Conversely, for buy Items, the price would be rounded down. This process will be repeated by the strategy for each of its other two Items, resulting in the calculated

prices illustrated in Figure 10. Thus, Item #2 is defined as having a price formula of (C.BestPrice/A.BestPrice) x 1.001, which is equal to 103.180752. Item #3, which is a buy item, and thus is defined as having a price formula of (A.BestPrice x B.BestPrice)/1.001, or (1.0235 x 103.15)/1.001= 105.468556. ...

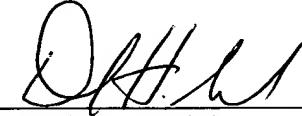
It is clear that neither Harpale nor Togher et al., alone or in combination, teach cross-market trading functionality as presently claimed. Applicant therefore respectfully requests reconsideration and the timely allowance of pending claims 1-19. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,
Morgan Lewis & Bockius LLP

Date: August 18, 2005

By:



Daniel H. Golub
Registration No. 33,701
Tel. No.: (215) 963-5055
Fax No.: (215) 963-5001